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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/587,667
Filing Date: June 08, 2007
Appellant(s): GILGE, MICHAEL

Aaron C. Deditch
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/12/2010 appealing from the Office action mailed 2/12/2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-13 have been cancelled.

Claims 14-35 have been rejected.

Though applicant only states that claims 15-35 are being appealed in his section entitled "Status of Claims" his subsequent actions in his appeal brief indicate he intended to appeal the rejection of claims 14-35 and the reference to only claims 15-35 was merely a typographical error. For this reason the examiner will present the rejection of claims 14-35.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

2004/0264493 Han 12-2004

Gilge (DE 101 53 484 A1)

James Martin, Local Area Networks, Prentice Hall, pp. 4, 6, 8, 192-193, and 312-313.

Jerry M. Rosenberg, Dictionary of Computers, Information Processing & Telecommunications, 2nd edition, John Wiley and Sons, 1987, p. 598.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 14-28, 31-32, and 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilge (DE 101 53 484 A1) in view of Martin (Local Area Networks).

In the examiner's judgment what applicant has done is apply a known technique (for example, a commercially-available, off-the-shelf, backbone Ethernet switch which can act as the central point of a star-shaped network or a commercially-available, off-the-shelf, backbone Ethernet hub which can act as the central point of a star-shaped network) to improve a known device (the system described in German Patent Application No. **DE 101 53 484)** to yield predictable results. According to MPEP 2143 (EXEMPLARY RATIONALES (D)) when making a rejection based on such a rationale, the examiner must first articulate a finding that the prior art contained a base device upon which the claimed invention can be seen as an improvement. Applicant makes this point for the examiner when he states in paragraph [0009] of his specification: "In particular, the signal processors or a subset of the signal processors are linked to one another via the network having a star-shaped topology. It is thereby possible to exchange data between individual signal processors, in particular all signal processors being able to communicate with one another at the same time. Because of that, it is possible to implement the system described in German Patent Application No. **DE 101 53 484** using a plurality of processing devices and an evaluating device, coupled to the processing devices, in a simple and cost-effective manner."

It could easily be argued that if one looks at Fig. 2 of Gilge, one sees the invention of claims 14, 16, and 22-26.

Claim 14 is taught by Gilge as follows: "***A data gathering/data processing device for video/audio signals, comprising: a plurality of signal processors*** (46, 48), ***and an evaluation device*** (72) ***configured to analyze output of at least a subset of the signal processors*** (46, 48)***, the evaluation device*** (72) ***and the at least a subset of the signal processors each forming a direct link to one of a direct link to one of a central hub, a switch and a port, of a network having a star-shaped topology.*** Note that in Fig. 2 of Gilge the signal processors (46, 48) **link** the audio and visual sensors to the digital lines (68, 70) which connect to the central point or hub of the star-shaped network (i.e., the evaluation device (72)) which **links** the signal processors (46, 48), the storage device (74), and the digital network (36). Note also that the evaluation device (72) is inherently linked to a port of the star-shaped network which provides access to the digital network (36) or the link would be useless as no communication could take place between the remote user (38) and the star-shaped network. In other words, the signal processors (46, 48) of Gilge are directly linked to the evaluation device (72) which acts as a hub/switch for the star-shaped network, and the evaluation device (72) is directly linked to a port which provides access to the digital network (36) and the remote user (38). As further explanation as to why one of ordinary skill would view Fig. 2 of Gilge as depicting a star-shaped network the examiner earlier provided applicant with an art-based definition of the term, star network. (The examiner regrets having inadvertently failed to provide applicant with a photocopy of the definition which he quoted in his earlier action and is now doing so; however, applicant did not mention the oversight before

filing the appeal brief.) The Dictionary of Computers, Information Processing & Telecommunications by Rosenberg defines a star network as "a network configuration in which there is only one path between a central or controlling node and each end-point node. There is only one path between each end-point node (46, 48, 38, and 74) and the central/controlling node (72) of the network depicted in Fig. 2 of the Gilge reference. Clearly, the invention of Gilge's Fig. 2 meets all the limitations of independent claim 14 given the broadest reasonable interpretation of applicant's claim language.

Claim 16 reads as follows: "***The device according to claim 14, wherein the network is integrated into the device.***" (Fig. 2) The star-shaped network, as depicted in Fig. 2, must be inherently integrated into the device in terms of software and hardware connectivity or Gilge's invention would not function as he describes. This is all that applicant's language requires.

Claim 22 reads as follows: "***The device according to claim 14, further comprising: at least one connection for inputting video/audio signals to the at least a subset of the signal processors.***" Note that in Fig. 2 of Gilge the signal processors (46, 48) **link** the audio and visual sensors to the digital lines (68, 70) which connect to the central point or hub of the star-shaped network (i.e., the evaluation device (72)).

Claim 23 reads as follows: "***The device according to claim 14, further comprising: at least one connection, at least two of the signal processors being***

assigned to the at least one connection." Fig. 1 of Gilge shows how one can assign two signal processors to one audio/video connection.

Claim 24 reads as follows: "***The device according to claim 14, further comprising: at least one connection for a transmission of data to a digital network.***" The evaluation device (72) is inherently linked to a connection/port of the star-shaped network which provides access to the digital network (36) or the link would be useless as no communication could take place between the remote user (38) and the star-shaped network.

Claim 25 reads as follows: "***The device according to claim 24, wherein the connection is coupled to the network of the device.***" As noted above, the evaluation device (72) is inherently linked to a connection/port of the star-shaped network which provides access to the digital network (36) or the link would be useless as no communication could take place between the remote user (38) and the star-shaped network.

Claim 26 reads as follows: "***The device according to claim 24, wherein the connection is coupled to at least one of a hub, a switch and a port of the network of the device.***" Once again, the evaluation device (72) is inherently linked to a connection/port of the star-shaped network which provides access to the digital network (36) or the link would be useless as no communication could take place between the remote user (38) and the star-shaped network.

However, though the device described and depicted in Gilge meets the limitations of applicant's claims 14, 16, and 22-26 when those claims are given their

broadest reasonable interpretation, a real weakness of the star-shaped network of Fig. 2 is that the evaluation device must not only evaluate data but balance network traffic, record network data, perform network error checking and correction, adapt to increased workload from additional devices, be reprogrammed to meet new communication standards, etc. The examiner in previous actions explained that the central node/evaluation device/hub (72) of Gilge receives audio/visual data from end-point nodes (46,48) in a compressed format (for example, MPEG-2 or MPEG4) to preserve transmission bandwidth, decompresses the data, performs analyses on the data such as motion detection or facial feature analysis, etc., stores data to the end-point (74), reads data from the end-point (74) to be used in the analyses and/or be transmitted to the user over any one of numerous types of networks (Internet, Intranet, UMTS network, GSM network, ISDN network, etc.) at end-point node (38), selects data for transmission to the user at end-point node (38), receives commands from the user at end-point node (38) to control the devices at end-point nodes (46, 48), etc. The examiner previously notified applicants that in the absence of a timely traversal of the examiner's Official Notice that it was conventional, at the time of applicant's invention, with LANs, WANs, Internet, Intranet, UMTS network, GSM network, ISDN network, etc. that records are kept, at least temporarily of data that is transmitted so that it can be retransmitted if there is an error in transmission, that data which is received over such networks is error checked, data sent over such networks is encoded so it can be error checked, and that the standards have evolved over time as technology has changed, it is now admitted prior art. This is a significant workload for one device requiring an

expensive processor which must be reprogrammed and/or replaced to adapt to changing conditions and communications protocols resulting in a high-cost product which is less competitive commercially.

There existed, at the time of applicant's invention, a known technique (for example, a backbone Ethernet switch which can act as the central point of a star-shaped network or a backbone Ethernet hub which can act as the central point of a star-shaped network) to improve such a device.

Martin taught LAN's have been used to implement alarm and security systems (p. 8) so there is motivation to use a LAN. In fact, Ethernet is now the most pervasive communications technology in use today. On pages 192 and 193 Martin discusses LANs based on wiring closets which is relevant to applicant's situation where applicant, to market security systems, is faced with the task of wiring buildings. Martin teaches that, "in many cases, the best solution to local area network wiring is to create a star-wired configuration". On those pages he depicts an Ethernet LAN configured as a star network with the network acting as the backbone of the system depicted. He also depicts a backbone Ethernet hub which forms a smaller, star-shaped network which permits, potentially, five processors to communicate with each other and with the rest of the Ethernet network. The examiner also takes Official Notice of the fact that at the time of applicant's filing of his invention there existed backbone Ethernet switches which could act as the central point of a star-shaped network and which could connect that network to a digital network such as the Internet. For most Ethernet applications the switch had replaced the hub at the time of applicant's invention because of the

greater processing capabilities of the switch coupled with a dramatic drop in the cost of switches. (The examiner has already notified applicant that in the absence of a timely traversal of the examiner's Official Notice of the fact that at the time of applicant's filing of his invention there existed backbone Ethernet switches which could act as the central point of a star-shaped network and which could connect that network to a digital network such as the Internet and that for most Ethernet applications the switch had replaced the hub at the time of applicant's invention because of the greater processing capabilities of the switch coupled with a dramatic drop in the cost of switches, it is now admitted prior art.)

Use of, for example, an off-the-shelf, backbone Ethernet switch to replace the evaluation device (72) as the central point of the star shaped network of Fig. 2 offers significant advantages for the invention depicted in Figure 2. First, a significant workload is lifted from the evaluation processor (72) while still providing all the connectivity of the system of Fig. 2. The switch can balance network traffic, provide access recording devices for all processors, perform network error checking and correction, adapt to increased workload from additional devices, be inexpensively replaced or have the software updated by the manufacturer to meet new communication standards, etc. This permits a less expensive processor to be used as the evaluation device and/or more sophisticated evaluations to be done using the freed processing power. Because Ethernet technology is so pervasive new products are frequently coming to market with enhanced speed and processing capabilities for less cost ultimately lowering the overall system cost for applicant's product. Ease of

installation of a small system with graceful growth as the system evolves, ease of reconfiguration and maintenance, and high reliability also argue in favor of using a backbone Ethernet switch as the central point in the star network in place of the evaluation processor (72) in Fig. 2. Also, those of ordinary skill realize that maintenance of a unique star network over time would result in significant costs such as paying staff to program, construct, and support appropriate unique network systems, costs to test software and hardware for reliability, costs to balance and rebalance workload as systems grew larger and more complex, and opportunity cost related to diverting monies from one's area of expertise to develop and maintain system components where others have the expertise. It is the whole reason corporations by off-the-shelf components for their systems where the manufacturer of the off-the-shelf product is a specialist in the technology. Rather than spending large sums on development and maintenance costs for a product peripheral to one's industry and expertise corporations look for reliable, less-expensive solutions. One of ordinary skill would have readily recognized that the substitution of a conventional backbone Ethernet switch for the evaluation processor (72) as the central point of the star network of Fig. 2 would have yielded predictable results and one of the results would have been an improved system with lower cost over the long term.

In the *KSR* decision the Supreme Court stated: "When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability. For the same reason, if a

technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his ordinary skill. *KSR*, 550 U.S. at 82 USPQ2d at 1396. When considering obviousness of a combination of known elements, the operative question is thus "whether the improvement is more than the predictable use of prior art elements according to their established functions." *Id.* at__82 USPQ2d at 1396.

The examiner has explained that applicant has applied a known technique to improve a known device in a predictable manner. He has explained his finding that the prior art contained an appropriate base device upon which the claimed invention can be seen as an improvement, his finding that the prior art contained a known technique that is applicable to the device, his finding that one of ordinary skill would have recognized that applying the known technique to the base device would have yielded predictable results and an improved system. The fact that the technique was known and the results were thoroughly predictable is further attested to by the fact applicant has no detailed drawings related to the network and how it would be implemented using hub, switch, Ethernet backbone, etc. nor does the disclosure present such information. There is only a single, simple figure accompanied by a limited description. Applicant's claimed invention is obvious in view of the prior art.

Given that one of ordinary skill made the design choice to improve the star network and device of Gilge by replacing the evaluation processor (72) as the hub/switch of the star network with a conventional Ethernet backbone hub/switch the

substance of claims 15 and 17-18 is self-evident to one of ordinary skill. In the case of claim 15 the digital signal processing tasks assigned to the processing means (46, 48) of Gilge and the evaluation processor (72) to which the signal processors send the streams of data are all processing signals meaning that Gilge's system utilizing a conventional Ethernet backbone hub/switch would have "at least a subset of the signal processors … communicatively interlinked via the one of a central hub, a switch and a port of the network." As to claims 17-18, utilizing the Ethernet switch would inherently mean the network would be designed and proceed according to the Ethernet standard.

Applicant's claims 20 and 21, they differ from rejected claims 14-18 and 22-26 only in their mention of a housing for their device and which elements of applicant's invention are either internal or external to the housing. This differentiation does not represent patentable subject matter. Otherwise, anyone capable of creating an electronics cabinet could create an invention by merely leaving one or more elements outside of the cabinet and any patent applicant received would be worthless. Also, incorporating all elements into a package to be delivered as a standalone system to an unsophisticated customer means that the customer need only be concerned with a few connections, etc. and can still have a rather sophisticated system. Also, situating the switch in a system externally would mean the system could easily have a key component upgraded to provide higher processing speeds and greater switching capabilities without altering the basic product container. These are all motivations for such housing configurations that one of ordinary skill would readily recognize.

As to claims 27 and 28, they fail to teach or define over rejected claims 14-26.

As to claim 31, Gilge taught “a first one (46 or 48) of the at least two of the plurality of signal processors is configured to perform a compression of a signal received from the signal source, and a second one (72) of the at least two of the plurality of signal processors is configured to perform an analysis of the signal received from the signal source”.

As to claim 32, it fails to teach or define over rejected c

As to claims 32 and 34-35, they fail to teach or define over rejected claims 14-28 and 31.

Claims 29-30 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilge (DE 101 53 484 A1) in view of Martin (Local Area Networks) and further in view of Han (Publication No. 20040264493).

Gilge and Martin taught the invention of claim 14 from which claim 33 depends as well as the concept, reiterated in claim 33, of internal communication between the plurality of signal processors occurs over a digital network coupled to the network having a star-shaped topology (see the previous rejection of claims 14-28). Gilge taught in relation to elements 26(a), 26(b), and 26(c) of his drawings “a first one of the at least two of the plurality of signal processors is configured to perform a compression of a signal received from the signal source, and a second one of the at least two of the plurality of signal processors is configured to perform an analysis of the signal received from the signal source". Han taught that at the time of applicant’s invention it was known in the art that Ethernet switches had the capability for a plurality of signal processors to communicate with one another in full duplex mode and for at least a

subset of the plurality of signal processors to be assigned a specific bandwidth (paragraphs [0105], [0106], and [0107] and claims 1, 11, 13, and 39).

As to claims 29-30, they fail to teach or define over rejected claims 14-28 and 31-33 and 34-35.

(10) Response to Argument

Applicants first argue that the examiner failed to establish a *prima facie* case of obviousness because he took Official Notice of “technical facts" (existence of backbone Ethemet switches with certain capabilities) in areas of esoteric technology (computer networks) and regarding knowledge of the prior art or the state of the art (For most Ethernet applications ...), which must always be supported by citation to some reference work recognized as standard in the pertinent art.

Applicant objects to the examiner taking Official Notice of facts related to the capabilities of Ethernet Switches, at the time of applicant’s invention, based on an argument that computer networks represent esoteric technology. When the examiner Googles the term, “computer network”, he gets 18,300,000 results. When the examiner Googles the term, “Ethernet switch”, he gets 4,470,000 results. When the examiner Googles the term, “Ethernet hub", he gets 1,540,000 results. In 1973 a researcher at Xerox designed the first Ethernet network. Applicants forget that the examiner’s action, the application, and the prior art are to be read as one of ordinary skill in the art would read them not as one unfamiliar with the art might read them. Asking someone actively working in computer networking applications if computer networks and Ethernet local-area-networks (LANs) represent esoteric technology to

them would be like asking a trained chef if cooking meat and potatoes for dinner represented esoteric knowledge to him or her. Were the technology esoteric, the examiner would be requiring far more enablement for applicant's implementation of their Ethernet network than applicant's simplistic Figure 1 accompanied by no technical discussion of the implementation details in the specification. Computer networks and Ethernet LANs and the relevant equipment to run them did not represent esoteric technology, at the time of applicant's invention, to those of ordinary skill in the art and still do not represent esoteric technology.

As to applicant taking issue with the examiner's Official Notice related to the fact that, at the time of applicant's invention, Ethernet switches were replacing Ethernet hubs as the connectivity mechanism of choice because of the greater capabilities of the switch and their declining costs, while the statement is true, this fact related to the state of the art really is not relevant to the examiner's rejection of applicant's claimed invention

The examiner took Official Notice of facts well-known to those of ordinary skill in the art and facts which are readily verifiable. The examiner explained each time he used Official Notice the provisions of MPEP 2144.03(c) which explain that applicant should state why the noticed fact is not considered to be common knowledge or well-known **in the art** when traversing the examiner's Official Notice. The examiner is even prepared to accept a statement from the inventor that he does not think that specific facts were known at the time of applicant's invention as a reason to provide a reference. However, such a statement would prove problematical when the examiner

provided one or more relevant references. Rather than a statement from the inventor, the examiner is also prepared to consider a technical article casting doubt on his Official Notice or expert testimony casting doubt on his Official Notice as a reason to provide additional references. The examiner proposed all these options to applicant previously but applicant has never provided evidence disputing the examiner's Official Notice. Applicant merely argues he would like to see more references.

There is no question that Ethernet switches and hubs existed at the time of applicant's invention. The Martin reference shows an Ethernet switch creating a star network in 1994. It would be very hard for applicant to argue that the Ethernet switches, at the time of applicant's invention could not interconnect multiple processors and connect those processors to the Internet because that is what applicant's Ethernet switch does. It is certainly clear from Gilge that his evaluation device was handling all the data from the other processing means, recording the data from the other processing means and/or redirecting it, linking to the Internet, etc. No one of ordinary skill in the art would look at the star network of Gilge and fail to recognize that the evaluation processor/hub of the star network was performing duties better handled by an off-the-shelf, Ethernet backbone switch. The examiner's Official Notice is not central to the rejection of applicant's claims, the evaluation device is a choke-point for Gilge's star network requiring an expensive processor to keep up with all its various tasks and requiring an even more expensive processor and expensive reprogramming to expand the capabilities of the system and maintain compatibility with network standards as they evolve. One of ordinary skill also recognizes that there are

significant costs to maintaining a unique star network rather than using an off-the-shelf Ethernet backbone switch to create the star network such as costs of paying staff to program, construct, and support appropriate unique network systems, costs to test software and hardware for reliability and costs to balance and rebalance workload as larger and more varied systems are created. There is more than ample motivation to substitute an Ethernet switch as the central hub of Gilge's star network even in the absence of the facts related to the examiner's Official Notice. The examiner's *prima facie* case stands even without the Official Notice.

Applicant next argues in relation to claim 14 he does not have a copy of the Rosenberg definition of a star network. Had applicant phoned the examiner and requested a copy, the examiner would have realized his oversight and sent him one earlier. Since applicant did not request a copy earlier, the examiner is sending him one now.

Applicant next argues in relation to claim 14 "as to whether the Ethernet techniques of the "Martin" reference are applicable to the "Gilge" system, the Office apparently and conveniently includes (without reason) various networking features into the "Gilge" system, such as evaluating data, balancing network traffic, recording network data, performing network error checking and correction, and adapting to increased workload from additional device. Although these features are absent from the "Gilge" system, the Office conclusorily asserts that it is conventional with networks (like the "Gilge" system) to include these features. The Office also assumes that the evaluation device necessarily implements these features. As explained above, the

evaluation device is not a controlling node. The mere fact that the evaluation device communicates with an external network is insufficient to conclude that the system as a whole is itself a network formed around the evaluation device, as provided for in the context of the claimed subject matter."

It is Gilge who assigns to the evaluation processor (72) the task of evaluating the data from the processing means (46, 48), of recording and/or redirecting the data from the processing means (46, 48) to the recoding device (74), of communicating to the user (38) over the Internet or other network recited in Gilge using the appropriate protocol, of receiving the data from one or more processing means without dropping data (it is merely an assumption on the examiner's part that Gilge would not want his security system dropping critical data), etc. The examiner has worked with the original German document and an imperfect machine translation of that German document obtained from the EPO website which does not permit exact citations of text. However, the examiner is confident he has not distorted the teachings of Gilge. It is surprising to the examiner that applicant, who is also the sole inventor for the Gilge reference, seems, based on his arguments, so unfamiliar with the teachings of the Gilge reference when the original language and original document are his own.

Applicants next argue application of an Ethernet switch to the Gilge star network and recognition of the fact that there are costs to maintaining a unique star network (such as costs of paying staff to program, construct, and support appropriate unique network systems, costs to test software and hardware for reliability, costs to balance and rebalance workload represent hindsight reasoning, and opportunity cost resulting

from diverting monies from a companies area of expertise to peripheral technology outside a companies area of expertise) represents hindsight reasoning. The Supreme Court in *KSR* reaffirmed the familiar framework for determining obviousness as set forth in *Graham v. John Deere Co.* (383 U.S. 1, 148 USPQ 459 (1966)), but stated that the Federal Circuit had erred by overemphasizing "the risk of courts and patent examiners falling prey to hindsight bias" and as a result applying "[r]igid preventative rules that deny factflnders recourse to common sense" (*KSR*, 550 U.S. at 82 USPQ2d at 1397.). Anyone reading Gilge would see that the invention is directed to a security system and not creating a star network though that was a component of the security system. Anyone of ordinary skill using common sense would recognize that it made good business sense to use an off-the-shelf Ethernet switch to create the star network rather than incur the costs of maintaining the unique star network. The automobile companies buy their tires from Goodyear, Michelin, Bridgestone, etc. rather than making them. Such a logical decision represents “common sense” not hindsight.

Finally, in relation to claim 14 applicant argues Martin does not teach how to modify an existing system to implement a star network. The examiner would also point out that applicant explains none of the technical details for implementing his star network. He has only a single, simplistic drawing depicting it. Ethernet networks, though they have evolved over time, were 30-year-old technology at the time applicant implemented his Ethernet LAN. In the computer and networking art that is very old technology. One of ordinary skill readily understood how to implement Gilge’s system using an Ethernet switch, at the time of applicant’s invention. Otherwise, applicant’s

application would require far more enablement and written description than a simplistic drawing.

In relation to claim 14 applicant asserts the examiner conclusorily asserts that full duplex communication and assigning of bandwidth by an Ethernet switch are taught by Han. Applicant apparently failed to read the citations to the Han reference. The examiner would suggest that applicant read them. Given that full duplex mode and assigning of bandwidth was a known capability of Ethernet switches, as taught by Han, and applicant's system is using an Ethernet switch, it is hard to argue the prior art capability of the Ethernet switch represents patentable differentiation invented by applicant. As to why one of ordinary skill is motivated to provide full-duplex communications, it provides greater bandwidth than half-duplex communications. The ability to assign bandwidth improves load-balancing on the network.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/William M. Treat/

Primary Examiner, Art Unit 2181

Conferees:

/Kevin L Ellis/
Supervisory Patent Examiner, Art Unit 2187

/Alford W. Kindred/

Supervisory Patent Examiner, Art Unit 2181